

AMENDED IN SENATE MAY 20, 2004

AMENDED IN SENATE MAY 3, 2004

AMENDED IN SENATE MARCH 22, 2004

SENATE BILL

No. 1566

Introduced by Senators Escutia and Alarcon

February 19, 2004

An act to amend Sections 49430, 49431, 49431.5, and 49433.7 of, and to add Section 49431.7 to, the Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 1566, as amended, Escutia. Schools: food and beverage nutrition standards.

Existing law restricts the sale of certain beverages and food items at elementary, middle, or junior high schools, with certain exceptions. Existing law makes the restrictions on the sale of food items at elementary schools operative if funding is appropriated for specified nutrition purposes.

This bill would place similar restrictions on the sale of certain beverages and food items at high schools.

The bill would delete the funding contingency applicable to elementary schools.

The bill would, in addition, revise and recast provisions relating to the sale of beverages and food items at elementary, middle, or junior high schools and make other conforming changes.

By imposing additional duties on school districts, this bill would impose a state-mandated local program.

The bill would make these provisions operative commencing with the 2005–06 school year.

Existing law requires the Superintendent of Public Instruction to reimburse school districts for certain costs associated with free and reduced price meals. Existing law requires the State Department of Education to establish a pilot program in which 10 high schools, middle schools or any combination thereof, adopt specified food sale requirements.

This bill would specify that middle schools participating in that pilot program are eligible for the reimbursement.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*

3 (a) *Childhood obesity has reached epidemic levels in*
4 *California and throughout the nation. Recent studies have shown*
5 *that 26.5 percent of California youth in grades 5, 7, and 9 are*
6 *overweight. In some legislative districts, more than 35 percent are*
7 *overweight. Nationally, the prevalence of obesity among children*
8 *and adolescents has increased nearly four-fold in the last 40 years.*

9 (b) *Overweight children face a greater risk of health problems,*
10 *including Type 2 diabetes, high blood pressure, high blood lipids,*
11 *asthma, sleep apnea, chronic hypoxemia, early maturation, and*
12 *orthopedic problems. Overweight children also suffer*
13 *psychosocial problems, including low self-esteem, poor body*
14 *image, and symptoms of depression. Poor self-image from being*
15 *obese follows girls into adulthood, resulting in fewer years of*

1 completed education, lower family incomes, and higher rates of
2 poverty, regardless of their initial socioeconomic background.

3 (c) Because overweight children are likely to become
4 overweight adults, these children are more liable to suffer from
5 cardiovascular disease, cancer, and diabetes in adulthood, all
6 chronic, but largely preventable diseases that already account for
7 two-thirds of all deaths in California.

8 (d) Physical inactivity and nutrition-related diseases are the
9 second leading cause of preventable death in the United States.
10 These diseases account for 28 percent of preventable deaths each
11 year, which is more than AIDS, violence, car crashes, alcohol and
12 drugs combined.

13 (e) Obesity costs California an estimated \$14.2 billion a year
14 in direct medical costs and lost productivity. Medical care costs
15 associated with obesity are greater than those associated with both
16 smoking and problem drinking.

17 (f) Diabetes has also reached epidemic levels primarily as a
18 result of the growing epidemic of obesity. From 1990 to 1998 there
19 was a 67.4 percent increase in diabetes among California adults.
20 If current trends continue, 32.8 percent of boys and 38.5 percent
21 of girls born in the U.S. in 2000 will develop diabetes, compared
22 to 6.3 percent of the U.S. population that currently has diabetes.
23 Type 2 diabetes, which until recently affected only adults, now
24 affects a growing number children because they are overweight,
25 accounting for almost 50 percent of new diabetes cases among
26 children in some U.S. communities. While overall death rates in
27 California are decreasing, diabetes death rates are increasing. In
28 2000, California's diabetes-related death rate was 10.4 percent
29 higher than the national rate.

30 (g) Healthy eating also plays an important role in learning and
31 cognitive development. Poor diet has been found to adversely
32 influence the ability to learn and to decrease motivation and
33 attentiveness.

34 (h) Health experts agree that one of the most effective ways to
35 prevent nutrition-related chronic diseases is to establish policies
36 and programs that encourage children and adolescents to develop
37 healthy eating habits they can maintain throughout their lives.

38 (i) Because of the number of hours children spend in school,
39 school environments play an influential role in the foods children

1 eat. At the same time, schools are required to care for the health
2 and physical development of pupils.

3 (j) While the United States Department of Agriculture (USDA)
4 regulates the nutrient content of meals sold under its reimbursable
5 meal program, similar standards do not exist for “competitive
6 foods” that are sold outside the USDA meal programs.
7 Competitive foods are often very high in added sugar, sodium, and
8 fat.

9 (k) In a survey conducted in 2000, 95 percent of responding
10 California school districts reported that they sell fast foods, the
11 most common of which are sodas, pizza, cookies, and chips.

12 (l) Only 2 percent of California youth 12 through 17 years of
13 age consume foods that meet national dietary recommendations.
14 Approximately 70 percent of children in the U.S. who are 2
15 through 11 years of age consume foods that exceeded current
16 dietary recommendations for intakes of total and saturated fat.
17 Only 21 percent of California children meet the goal of eating five
18 servings of fruits and vegetables per day.

19 (m) Soft drinks now comprise the leading source of added sugar
20 in a child’s diet. Each additional daily serving of sugar-sweetened
21 soda increases a child’s risk for obesity by 60 percent. Twenty years
22 ago, boys consumed more than twice as much milk as soft drinks,
23 and girls consumed 50 percent more milk than soft drinks. By 1996,
24 both boys and girls consumed twice as many soft drinks as milk.

25 (n) Teenage boys consume twice the recommended amount of
26 sugar each day, almost one-half of which comes from soft drinks.
27 Teenage girls consume almost three times the recommended
28 amount of sugar, 40 percent of which comes from soft drinks.

29 SEC. 2. Section 49430 of the Education Code is amended to
30 read:

31 49430. As used in this article, the following terms have the
32 following meanings:

33 (a) “Elementary school” means a public school that maintains
34 any grade from kindergarten to grade 6, inclusive, but no grade
35 higher than grade 6.

36 (b) “Middle or junior high school” means any public school
37 that maintains grade 7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive.

38 (c) “High school” means any public school maintaining any of
39 grades 10 to 12, inclusive.

(d) “Full meal” means any combination of food items that meet a USDA-approved meal pattern.

(e) “Added sweetener” means any additive other than 100 percent fruit juice that enhances the sweetness of a beverage.

~~SEC. 2.—~~

SEC. 3. Section 49431 of the Education Code is amended to read:

49431. (a) Commencing with the 2005–06 school year, at each elementary school, the sale of all foods and beverages on school grounds shall be approved for compliance with the nutrition standards in this section by the person or persons responsible for implementing these provisions as designated by the school district.

(b) (1) At each elementary school, the only food that may be sold to a pupil during breakfast and lunch periods is food that is sold as a full meal. This paragraph does not prohibit the sale of fruit, nonfried vegetables, legumes, or beverages as individual food items during breakfast or lunch periods if they meet the requirements set forth in this subdivision.

(2) An individual food item sold to a pupil during morning or afternoon breaks at an elementary school shall meet all of the following standards:

(A) Not more than 35 percent of its total calories shall be from fat. This subparagraph does not apply to the sale of nuts or seeds.

(B) Not more than 10 percent of its total calories shall be from saturated fat.

(C) Not more than 35 percent of its total weight shall be composed of sugar. This subparagraph does not apply to the sale of fruits or vegetables.

(c) Only the following beverages may be sold to a pupil at an elementary school:

(1) Drinking water.

(2) 100 percent milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy milk.

(3) 100 percent fruit juices.

(4) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweeteners.

(d) An elementary school may permit the sale of food items or beverages that do not comply with subdivision (b) or (c) as part of a school fundraising event in any of the following circumstances:

1 ~~(1) The items are sold by pupils of the school and the sale of~~
2 ~~those items takes place off of school premises.~~

3 ~~(2) The items are sold by pupils of the school and the sale of~~
4 ~~those items takes place on school premises at least one-half hour~~
5 ~~after the end of the schoolday.~~

6 (e) Notwithstanding Article 3 (commencing with Section
7 33050) of Chapter 1 of Part 20, compliance with this section may
8 not be waived.

9 ~~SEC. 3.—~~

10 SEC. 4. Section 49431.5 of the Education Code is amended to
11 read:

12 49431.5. (a) Commencing with the 2005–06 school year, at
13 each middle or junior high school, the sale of all foods and
14 beverages on school grounds shall be approved for compliance
15 with the nutrition standards in this section by the person or persons
16 responsible for implementing these provisions as designated by
17 the school district.

18 (b) An individual food item sold to a pupil in a middle or junior
19 high school shall meet all of the following standards:

20 (1) Not more than 35 percent of its total calories shall be from
21 fat. This paragraph does not apply to the sale of nuts or seeds.

22 (2) Not more than 10 percent of its total calories shall be from
23 saturated fat.

24 (3) Not more than 35 percent of its total weight shall be
25 composed of sugar. This paragraph does not apply to the sale of
26 fruits or vegetables.

27 (c) From one-half hour before the start of the schoolday to
28 one-half hour after the end of the schoolday, only the following
29 beverages may be sold to a pupil at a middle or junior high school:

30 (1) Drinking water.

31 (2) 100 percent milk, including, but not limited to, chocolate
32 milk, soy milk, rice milk, and other similar dairy or nondairy milk.

33 (3) Fruit-based drinks that are composed of no less than 50
34 percent fruit juice and have no added sweeteners.

35 (4) An electrolyte replacement beverage that contains no more
36 than 42 grams of added sweetener per 20-ounce serving.

37 (d) A middle or junior high school may permit the sale of food
38 items or beverages that do not comply with subdivision (b) or (c)
39 ~~as part of a school fundraising event if the sale of those items meets~~
40 ~~all of the following criteria:~~

~~(1) The sale occurs during a school-sponsored event and takes place at the location of that event after the end of the schoolday.~~

~~(2) Vending machines, pupil stores, and cafeterias are not used for the sale prior to one-half hour after the end of the schoolday. in any of the following circumstances:~~

~~(1) The sale of those items takes place off of school premises.~~

~~(2) The sale of those items takes place on school premises at least one-half hour after the end of the schoolday.~~

(e) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, compliance with this section may not be waived.

~~SEC. 4.—~~

SEC. 5. Section 49431.7 is added to the Education Code, to read:

49431.7. (a) Commencing with the 2005–06 school year, at each high school, the sale of all foods and beverages on school grounds shall be approved for compliance with the nutrition standards in this section by the person or persons responsible for implementing these provisions as designated by the school district.

(b) An individual food item sold to a pupil in high school shall meet all of the following standards:

(1) Not more than 35 percent of its total calories shall be from fat. This paragraph does not apply to the sale of nuts or seeds.

(2) Not more than 10 percent of its total calories shall be from saturated fat.

(3) Not more than 35 percent of its total weight shall be composed of sugar. This paragraph does not apply to the sale of fruits or vegetables.

(c) From one-half hour before the start of the schoolday to one-half hour after the end of the schoolday, only the following beverages may be sold to a pupil at a high school:

(1) Drinking water.

(2) 100 percent milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy milk.

(3) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweeteners.

(4) An electrolyte replacement beverage that contains no more than 42 grams of added sweetener per 20-ounce serving.

(d) A high school may permit the sale of food items or beverages that do not comply with subdivision (b) or (c) as part of

~~a school fundraising event if the sale of those items meets all of the following criteria:~~

~~(1) The sale occurs during a school-sponsored event and takes place at the location of that event after the end of the schoolday.~~

~~(2) Vending machines, pupil stores, and cafeterias are not used for the sale prior to one-half hour after the end of the schoolday.~~

~~in any of the following circumstances:~~

~~(1) The sale of those items takes place off of school premises.~~

~~(2) The sale of those items takes place on school premises at least one-half hour after the end of the schoolday.~~

~~(3) The sale occurs during a school-sponsored pupil activity at the location of that activity after the end of the schoolday.~~

(e) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, compliance with this section may not be waived.

~~SEC. 5.—~~

SEC. 6. Section 49433.7 of the Education Code is amended to read:

49433.7. The State Department of Education shall establish a three-year pilot program in which a total of not less than 10 high schools, middle schools, or any combination thereof, that apply are selected to participate. Although the selection process shall be random, the selection process shall be weighted so that the pilot program contains participants that, as a group, are representative of the geographic diversity of the state. The pilot program shall commence in the fall of the 2002–03 school year. Participating districts will be eligible to receive a grant pursuant to subdivision (c) of Section 49433 and an increased reimbursement rate for free and reduced price meals served at participating middle and high schools as set forth in Section 49430.5.

~~SEC. 6.—~~

SEC. 7. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000),

1 reimbursement shall be made from the State Mandates Claims
2 Fund.

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